

SECOND REGULAR SESSION

SENATE BILL NO. 1205

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATORS DOUGHERTY AND GROSS.

Read 1st time March 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

3618S.01I

AN ACT

To repeal sections 100.286, 100.297, 135.110, 135.305, 135.313, 135.750, 143.225, 143.261, 144.081, 144.140, 313.826, 320.093, and 660.136, RSMo, and to enact in lieu thereof eleven new sections relating to the utilicare stabilization fund.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 100.286, 100.297, 135.110, 135.305, 135.313, 135.750, 2 143.225, 143.261, 144.081, 144.140, 313.826, 320.093, and 660.136, RSMo, are 3 repealed and eleven new sections enacted in lieu thereof, to be known as sections 4 100.286, 100.297, 135.110, 135.305, 135.313, 135.750, 143.225, 144.081, 313.826, 5 320.093, and 660.136, to read as follows:

100.286. 1. Within the discretion of the board, the development and 2 reserve fund, the infrastructure development fund or the export finance fund may 3 be pledged to secure the payment of any bonds or notes issued by the board, or 4 to secure the payment of any loan made by the board or a participating lender 5 which loan:

- 6 (1) Is requested to finance any project or export trade activity;
- 7 (2) Is requested by a borrower who is demonstrated to be financially 8 responsible;
- 9 (3) Can reasonably be expected to provide a benefit to the economy of this 10 state;
- 11 (4) Is otherwise secured by a mortgage or deed of trust on real or personal 12 property or other security satisfactory to the board; provided that loans to finance 13 export trade activities may be secured by export accounts receivable or 14 inventories of exportable goods satisfactory to the board;
- 15 (5) Does not exceed five million dollars;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 (6) Does not have a term longer than five years if such loan is made to
17 finance export trade activities; and

18 (7) Is, when used to finance export trade activities, made to small or
19 medium size businesses or agricultural businesses, as may be defined by the
20 board.

21 2. The board shall prescribe standards for the evaluation of the financial
22 condition, business history, and qualifications of each borrower and the terms and
23 conditions of loans which may be secured, and may require each application to
24 include a financial report and evaluation by an independent certified public
25 accounting firm, in addition to such examination and evaluation as may be
26 conducted by any participating lender.

27 3. Each application for a loan secured by the development and reserve
28 fund, the infrastructure development fund or the export finance fund shall be
29 reviewed in the first instance by any participating lender to whom the application
30 was submitted. If satisfied that the standards prescribed by the board are met
31 and that the loan is otherwise eligible to be secured by the development and
32 reserve fund, the infrastructure development fund or the export finance fund, the
33 participating lender shall certify the same and forward the application for final
34 approval to the board.

35 4. The securing of any loans by the development and reserve fund, the
36 infrastructure development fund or the export finance fund shall be conditioned
37 upon approval of the application by the board, and receipt of an annual reserve
38 participation fee, as prescribed by the board, submitted by or on behalf of the
39 borrower.

40 5. The securing of any loan by the export finance fund for export trade
41 activities shall be conditioned upon the board's compliance with any applicable
42 treaties and international agreements, such as the general agreement on tariffs
43 and trade and the subsidies code, to which the United States is then a party.

44 6. Any taxpayer shall be entitled to a tax credit against any tax otherwise
45 due under the provisions of chapter 143, RSMo, excluding withholding tax
46 imposed by sections 143.191 to [143.261] **143.251**, RSMo, chapter 147, RSMo, or
47 chapter 148, RSMo, in the amount of fifty percent of any amount contributed in
48 money or property by the taxpayer to the development and reserve fund, the
49 infrastructure development fund or the export finance fund during the taxpayer's
50 tax year, provided, however, the total tax credits awarded in any calendar year
51 beginning after January 1, 1994, shall not be the greater of ten million dollars or

52 five percent of the average growth in general revenue receipts in the preceding
53 three fiscal years. This limit may be exceeded only upon joint agreement by the
54 commissioner of administration, the director of the department of economic
55 development, and the director of the department of revenue that such action is
56 essential to ensure retention or attraction of investment in Missouri. If the board
57 receives, as a contribution, real property, the contributor at such contributor's
58 own expense shall have two independent appraisals conducted by appraisers
59 certified by the Master Appraisal Institute. Both appraisals shall be submitted
60 to the board, and the tax credit certified by the board to the contributor shall be
61 based upon the value of the lower of the two appraisals. The board shall not
62 certify the tax credit until the property is deeded to the board. Such credit shall
63 not apply to reserve participation fees paid by borrowers under sections 100.250
64 to 100.297. The portion of earned tax credits which exceeds the taxpayer's tax
65 liability may be carried forward for up to five years.

66 7. Notwithstanding any provision of law to the contrary, any taxpayer
67 may sell, assign, exchange, convey or otherwise transfer tax credits allowed in
68 subsection 6 of this section under the terms and conditions prescribed in
69 subdivisions (1) and (2) of this subsection. Such taxpayer, hereinafter the
70 assignor for the purpose of this subsection, may sell, assign, exchange or
71 otherwise transfer earned tax credits:

72 (1) For no less than seventy-five percent of the par value of such credits;
73 and

74 (2) In an amount not to exceed one hundred percent of annual earned
75 credits.

76 The taxpayer acquiring earned credits, hereinafter the assignee for the purpose
77 of this subsection, may use the acquired credits to offset up to one hundred
78 percent of the tax liabilities otherwise imposed by chapter 143, RSMo, excluding
79 withholding tax imposed by sections 143.191 to [143.261] **143.251**, RSMo, chapter
80 147, RSMo, or chapter 148, RSMo. Unused credits in the hands of the assignee
81 may be carried forward for up to five years, provided all such credits shall be
82 claimed within ten years following the tax years in which the contribution was
83 made. The assignor shall enter into a written agreement with the assignee
84 establishing the terms and conditions of the agreement and shall perfect such
85 transfer by notifying the board in writing within thirty calendar days following
86 the effective day of the transfer and shall provide any information as may be
87 required by the board to administer and carry out the provisions of this

88 section. Notwithstanding any other provision of law to the contrary, the amount
89 received by the assignor of such tax credit shall be taxable as income of the
90 assignor, and the excess of the par value of such credit over the amount paid by
91 the assignee for such credit shall be taxable as income of the assignee.

100.297. 1. The board may authorize a tax credit, as described in this
2 section, to the owner of any revenue bonds or notes issued by the board pursuant
3 to the provisions of sections 100.250 to 100.297, for infrastructure facilities as
4 defined in subdivision (9) of section 100.255, if, prior to the issuance of such
5 bonds or notes, the board determines that:

6 (1) The availability of such tax credit is a material inducement to the
7 undertaking of the project in the state of Missouri and to the sale of the bonds or
8 notes;

9 (2) The loan with respect to the project is adequately secured by a first
10 deed of trust or mortgage or comparable lien, or other security satisfactory to the
11 board.

12 2. Upon making the determinations specified in subsection 1 of this
13 section, the board may declare that each owner of an issue of revenue bonds or
14 notes shall be entitled, in lieu of any other deduction with respect to such bonds
15 or notes, to a tax credit against any tax otherwise due by such owner pursuant
16 to the provisions of chapter 143, RSMo, excluding withholding tax imposed by
17 sections 143.191 to [143.261] **143.251**, RSMo, chapter 147, RSMo, or chapter 148,
18 RSMo, in the amount of one hundred percent of the unpaid principal of and
19 unpaid interest on such bonds or notes held by such owner in the taxable year of
20 such owner following the calendar year of the default of the loan by the borrower
21 with respect to the project. The occurrence of a default shall be governed by
22 documents authorizing the issuance of the bonds. The tax credit allowed
23 pursuant to this section shall be available to the original owners of the bonds or
24 notes or any subsequent owner or owners thereof. Once an owner is entitled to
25 a claim, any such tax credits shall be transferable as provided in subsection 7 of
26 section 100.286. Notwithstanding any provision of Missouri law to the contrary,
27 any portion of the tax credit to which any owner of a revenue bond or note is
28 entitled pursuant to this section which exceeds the total income tax liability of
29 such owner of a revenue bond or note shall be carried forward and allowed as a
30 credit against any future taxes imposed on such owner within the next ten years
31 pursuant to the provisions of chapter 143, RSMo, excluding withholding tax
32 imposed by sections 143.191 to [143.261] **143.251**, RSMo, chapter 147, RSMo, or

33 chapter 148, RSMo. The eligibility of the owner of any revenue bond or note
34 issued pursuant to the provisions of sections 100.250 to 100.297 for the tax credit
35 provided by this section shall be expressly stated on the face of each such bond
36 or note. The tax credit allowed pursuant to this section shall also be available
37 to any financial institution or guarantor which executes any credit facility as
38 security for bonds issued pursuant to this section to the same extent as if such
39 financial institution or guarantor was an owner of the bonds or notes, provided
40 however, in such case the tax credits provided by this section shall be available
41 immediately following any default of the loan by the borrower with respect to the
42 project. In addition to reimbursing the financial institution or guarantor for
43 claims relating to unpaid principal and interest, such claim may include payment
44 of any unpaid fees imposed by such financial institution or guarantor for use of
45 the credit facility.

46 3. The aggregate principal amount of revenue bonds or notes outstanding
47 at any time with respect to which the tax credit provided in this section shall be
48 available shall not exceed fifty million dollars.

135.110. 1. Any taxpayer who shall establish a new business facility shall
2 be allowed a credit, each year for ten years, in an amount determined pursuant
3 to subsection 2 or 3 of this section, whichever is applicable, against the tax
4 imposed by chapter 143, RSMo, excluding withholding tax imposed by sections
5 143.191 to 143.265, RSMo, or an insurance company which shall establish a new
6 business facility by satisfying the requirements in subdivision (7) of section
7 135.100 shall be allowed a credit against the tax otherwise imposed by chapter
8 148, RSMo, and in the case of an insurance company exempt from the thirty
9 percent employee requirement of section 135.230, against any obligation imposed
10 pursuant to section 375.916, RSMo, except that no taxpayer shall be entitled to
11 multiple ten-year periods for subsequent expansions at the same facility, except
12 as otherwise provided in this section. For the purpose of this section, the term
13 "facility" shall mean, and be limited to, the facility or facilities which are located
14 on the same site in which the new business facility is located, and in which the
15 business conducted at such facility or facilities is directly related to the business
16 conducted at the new business facility. Notwithstanding the provisions of this
17 subsection, a taxpayer may be entitled to an additional ten-year period if a new
18 business facility is expanded in the eighth, ninth or tenth year of the current
19 ten-year period or in subsequent years following the expiration of the ten-year
20 period, if the number of new business facility employees attributed to such

21 expansion is at least twenty-five and the amount of new business facility
22 investment attributed to such expansion is at least one million dollars. Credits
23 may not be carried forward but shall be claimed for the taxable year during which
24 commencement of commercial operations occurs at such new business facility, and
25 for each of the nine succeeding taxable years. A letter of intent, as provided for
26 in section 135.258, must be filed with the department of economic development
27 no later than fifteen days prior to the commencement of commercial operations
28 at the new business facility. The initial application for claiming tax credits must
29 be made in the taxpayer's tax period immediately following the tax period in
30 which commencement of commercial operations began at the new business
31 facility. This provision shall have effect on all initial applications filed on or after
32 August 28, 1992. No credit shall be allowed pursuant to this section unless the
33 number of new business facility employees engaged or maintained in employment
34 at the new business facility for the taxable year for which the credit is claimed
35 equals or exceeds two; except that the number of new business facility employees
36 engaged or maintained in employment by a revenue-producing enterprise other
37 than a revenue-producing enterprise defined in paragraphs (a) to (g) and (i) to (l)
38 of subdivision (11) of section 135.100 which establishes an office as defined in
39 subdivision (8) of section 135.100 shall equal or exceed twenty-five.

40 2. For tax periods beginning after August 28, 1991, in the case of a
41 taxpayer operating an existing business facility, the credit allowed by subsection
42 1 of this section shall offset the greater of:

43 (1) Some portion of the income tax otherwise imposed by chapter 143,
44 RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo,
45 or in the case of an insurance company, the tax on the direct premiums, as
46 defined in chapter 148, RSMo, and in the case of an insurance company exempt
47 from the thirty percent employee requirement of section 135.230, against any
48 obligation imposed pursuant to section 375.916, RSMo, with respect to such
49 taxpayer's new business facility income for the taxable year for which such credit
50 is allowed; or

51 (2) Up to fifty percent or, in the case of an economic development project
52 located within a distressed community as defined in section 135.530, seventy-five
53 percent of the business income tax otherwise imposed by chapter 143, RSMo,
54 excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or in
55 the case of an insurance company, the tax on the direct premiums, as defined in
56 chapter 148, RSMo, and in the case of an insurance company exempt from the

57 thirty percent employee requirement of section 135.230, against any obligation
58 imposed pursuant to section 375.916, RSMo, if the business operates no other
59 facilities in Missouri. In the case of an existing business facility operating more
60 than one facility in Missouri, the credit allowed in subsection 1 of this section
61 shall offset up to the greater of the portion prescribed in subdivision (1) of this
62 subsection or twenty-five percent or, in the case of an economic development
63 project located within a distressed community as defined in section 135.530,
64 thirty-five percent of the business' tax, except that no taxpayer operating more
65 than one facility in Missouri shall be allowed to offset more than twenty-five
66 percent or, in the case of an economic development project located within a
67 distressed community as defined in section 135.530, thirty-five percent of the
68 taxpayer's business income tax in any tax period under the method prescribed in
69 this subdivision. Such credit shall be an amount equal to the sum of one hundred
70 dollars or, in the case of an economic development project located within a
71 distressed community as defined in section 135.530, one hundred fifty dollars for
72 each new business facility employee plus one hundred dollars or, in the case of
73 an economic development project located within a distressed community as
74 defined in section 135.530, one hundred fifty dollars for each one hundred
75 thousand dollars, or major fraction thereof (which shall be deemed to be fifty-one
76 percent or more) in new business facility investment. For the purpose of this
77 section, tax credits earned by a taxpayer, who establishes a new business facility
78 because it satisfies the requirements of paragraph (c) of subdivision (4) of section
79 135.100, shall offset the greater of the portion prescribed in subdivision (1) of this
80 subsection or up to fifty percent or, in the case of an economic development
81 project located within a distressed community as defined in section 135.530,
82 seventy-five percent of the business' tax provided the business operates no other
83 facilities in Missouri. In the case of a business operating more than one facility
84 in Missouri, the credit allowed in subsection 1 of this section shall offset up to the
85 greater of the portion prescribed in subdivision (1) of this subsection or
86 twenty-five percent or, in the case of an economic development project located
87 within a distressed community as defined in section 135.530, thirty-five percent
88 of the business' tax, except that no taxpayer operating more than one facility in
89 Missouri shall be allowed to offset more than twenty-five percent or, in the case
90 of an economic development project located within a distressed community as
91 defined in section 135.530, thirty-five percent of the taxpayer's business income
92 tax in any tax period under the method prescribed in this subdivision.

93 3. For tax periods beginning after August 28, 1991, in the case of a
94 taxpayer not operating an existing business facility, the credit allowed by
95 subsection 1 of this section shall offset the greater of:

96 (1) Some portion of the income tax otherwise imposed by chapter 143,
97 RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo,
98 or in the case of an insurance company, the tax on the direct premiums, as
99 defined in chapter 148, RSMo, and in the case of an insurance company exempt
100 from the thirty percent employee requirement of section 135.230, against any
101 obligation imposed pursuant to section 375.916, RSMo, with respect to such
102 taxpayer's new business facility income for the taxable year for which such credit
103 is allowed; or

104 (2) Up to one hundred percent of the business income tax otherwise
105 imposed by chapter 143, RSMo, excluding withholding tax imposed by sections
106 143.191 to 143.265, RSMo, or in the case of an insurance company, the tax on the
107 direct premiums, as defined in chapter 148, RSMo, and in the case of an
108 insurance company exempt from the thirty percent employee requirement of
109 section 135.230, against any obligation imposed pursuant to section 375.916,
110 RSMo, if the business has no other facilities operating in Missouri. In the case
111 of a taxpayer not operating an existing business and operating more than one
112 facility in Missouri, the credit allowed by subsection 1 of this section shall offset
113 up to the greater of the portion prescribed in subdivision (1) of this subsection or
114 twenty-five percent or, in the case of an economic development project located
115 within a distressed community as defined in section 135.530, thirty-five percent
116 of the business' tax, except that no taxpayer operating more than one facility in
117 Missouri shall be allowed to offset more than twenty-five percent or, in the case
118 of an economic development project located within a distressed community as
119 defined in section 135.530, thirty-five percent of the taxpayer's business income
120 tax in any tax period under the method prescribed in this subdivision. Such
121 credit shall be an amount equal to the sum of seventy-five dollars or, in the case
122 of an economic development project located within a distressed community as
123 defined in section 135.530, one hundred twenty-five dollars for each new business
124 facility employee plus seventy-five dollars or, in the case of an economic
125 development project located within a distressed community as defined in section
126 135.530, one hundred twenty-five dollars for each one hundred thousand dollars,
127 or major fraction thereof (which shall be deemed to be fifty-one percent or more)
128 in new business facility investment.

129 4. The number of new business facility employees during any taxable year
130 shall be determined by dividing by twelve the sum of the number of individuals
131 employed on the last business day of each month of such taxable year. If the new
132 business facility is in operation for less than the entire taxable year, the number
133 of new business facility employees shall be determined by dividing the sum of the
134 number of individuals employed on the last business day of each full calendar
135 month during the portion of such taxable year during which the new business
136 facility was in operation by the number of full calendar months during such
137 period. For the purpose of computing the credit allowed by this section in the
138 case of a facility which qualifies as a new business facility because it qualifies as
139 a separate facility pursuant to subsection 6 of this section, and, in the case of a
140 new business facility which satisfies the requirements of paragraph (c) of
141 subdivision (4) of section 135.100, or subdivision (10) of section 135.100, the
142 number of new business facility employees at such facility shall be reduced by the
143 average number of individuals employed, computed as provided in this subsection,
144 at the facility during the taxable year immediately preceding the taxable year in
145 which such expansion, acquisition, or replacement occurred and shall further be
146 reduced by the number of individuals employed by the taxpayer or related
147 taxpayer that was subsequently transferred to the new business facility from
148 another Missouri facility and for which credits authorized in this section are not
149 being earned, whether such credits are earned because of an expansion,
150 acquisition, relocation or the establishment of a new facility.

151 5. For the purpose of computing the credit allowed by this section in the
152 case of a facility which qualifies as a new business facility because it qualifies as
153 a separate facility pursuant to subsection 6 of this section, and, in the case of a
154 new business facility which satisfies the requirements of paragraph (c) of
155 subdivision (4) of section 135.100 or subdivision (10) of section 135.100, the
156 amount of the taxpayer's new business facility investment in such facility shall
157 be reduced by the average amount, computed as provided in subdivision (7) of
158 section 135.100 for new business facility investment, of the investment of the
159 taxpayer, or related taxpayer immediately preceding such expansion or
160 replacement or at the time of acquisition. Furthermore, the amount of the
161 taxpayer's new business facility investment shall also be reduced by the amount
162 of investment employed by the taxpayer or related taxpayer which was
163 subsequently transferred to the new business facility from another Missouri
164 facility and for which credits authorized in this section are not being earned,

165 whether such credits are earned because of an expansion, acquisition, relocation
166 or the establishment of a new facility.

167 6. If a facility, which does not constitute a new business facility, is
168 expanded by the taxpayer, the expansion shall be considered a separate facility
169 eligible for the credit allowed by this section if:

170 (1) The taxpayer's new business facility investment in the expansion
171 during the tax period in which the credits allowed in this section are claimed
172 exceeds one hundred thousand dollars, or, if less, one hundred percent of the
173 investment in the original facility prior to expansion and if the number of new
174 business facility employees engaged or maintained in employment at the
175 expansion facility for the taxable year for which credit is claimed equals or
176 exceeds two, except that the number of new business facility employees engaged
177 or maintained in employment at the expansion facility for the taxable year for
178 which the credit is claimed equals or exceeds twenty-five if an office as defined
179 in subdivision (8) of section 135.100 is established by a revenue-producing
180 enterprise other than a revenue-producing enterprise defined in paragraphs (a)
181 to (g) and (i) to (l) of subdivision (11) of section 135.100 and the total number of
182 employees at the facility after the expansion is at least two greater than the total
183 number of employees before the expansion, except that the total number of
184 employees at the facility after the expansion is at least greater than the number
185 of employees before the expansion by twenty-five, if an office as defined in
186 subdivision (8) of section 135.100 is established by a revenue-producing enterprise
187 other than a revenue-producing enterprise defined in paragraphs (a) to (g) and
188 (i) to (l) of subdivision (11) of section 135.100; and

189 (2) The expansion otherwise constitutes a new business facility. The
190 taxpayer's investment in the expansion and in the original facility prior to
191 expansion shall be determined in the manner provided in subdivision (7) of
192 section 135.100.

193 7. No credit shall be allowed pursuant to this section to a public utility,
194 as such term is defined in section 386.020, RSMo. Notwithstanding any provision
195 of this subsection to the contrary, motor carriers, barge lines or railroads engaged
196 in transporting property for hire, or any interexchange telecommunications
197 company or local exchange telecommunications company that establishes a new
198 business facility shall be eligible to qualify for credits allowed in this section.

199 8. For the purposes of the credit described in this section, in the case of
200 a corporation described in section 143.471, RSMo, or partnership, in computing

201 Missouri's tax liability, this credit shall be allowed to the following:

202 (1) The shareholders of the corporation described in section 143.471,
203 RSMo;

204 (2) The partners of the partnership.

205 This credit shall be apportioned to the entities described in subdivisions (1) and
206 (2) of this subsection in proportion to their share of ownership on the last day of
207 the taxpayer's tax period.

208 9. Notwithstanding any provision of law to the contrary, any
209 employee-owned engineering firm classified as SIC 8711, architectural firm as
210 classified SIC 8712, or accounting firm classified SIC 8721 establishing a new
211 business facility because it qualifies as a headquarters as defined in subsection
212 10 of this section, shall be allowed the credits described in subsection 11 of this
213 section under the same terms and conditions prescribed in sections 135.100 to
214 135.150; provided:

215 (1) Such facility maintains an average of at least five hundred new
216 business facility employees as defined in subdivision (5) of section 135.100 during
217 the taxpayer's tax period in which such credits are being claimed; and

218 (2) Such facility maintains an average of at least twenty million dollars
219 in new business facility investment as defined in subdivision (7) of section
220 135.100 during the taxpayer's tax period in which such credits are being claimed.

221 10. For the purpose of the credits allowed in subsection 9 of this section:

222 (1) "Employee-owned" means the business employees own directly or
223 indirectly, including through an employee stock ownership plan or trust at least:

224 (a) Seventy-five percent of the total business stock, if the taxpayer is a
225 corporation described in section 143.441, RSMo; or

226 (b) One hundred percent of the interest in the business if the taxpayer is
227 a corporation described in section 143.471, RSMo, a partnership, or a limited
228 liability company; and

229 (2) "Headquarters" means:

230 (a) The administrative management of at least three integrated facilities
231 operated by the taxpayer or related taxpayer; and

232 (b) The taxpayer's business has been headquartered in this state for more
233 than fifty years.

234 11. The tax credits allowed in subsection 9 of this section shall be the
235 greater of:

236 (1) Four hundred dollars for each new business facility employee as

237 computed in subsection 4 of this section and four percent of new business facility
238 investment as computed in subsection 5 of this section; or

239 (2) Five hundred dollars for each new business facility employee as
240 computed in subsection 4 of this section, and five hundred dollars of each one
241 hundred thousand dollars of new business facility investment as computed in
242 subsection 5 of this section.

243 12. For the purpose of the credit described in subsection 9 of this section,
244 in the case of a small corporation described in section 143.471, RSMo, or a
245 partnership, or a limited liability company, the credits allowed in subsection 9 of
246 this section shall be apportioned in proportion to the share of ownership of each
247 shareholder, partner or stockholder on the last day of the taxpayer's tax period
248 for which such credits are being claimed.

249 13. For the purpose of the credit described in subsection 9 of this section,
250 tax credits earned, to the extent such credits exceed the taxpayer's Missouri tax
251 on taxable business income, shall constitute an overpayment of taxes and in such
252 case, be refunded to the taxpayer provided such refunds are used by the taxpayer
253 to purchase specified facility items. For the purpose of the refund as authorized
254 in this subsection, "specified facility items" means equipment, computers,
255 computer software, copiers, tenant finishing, furniture and fixtures installed and
256 in use at the new business facility during the taxpayer's taxable year. The
257 taxpayer shall perfect such refund by attesting in writing to the director, subject
258 to the penalties of perjury, the requirements prescribed in this subsection have
259 been met and submitting any other information the director may require.

260 14. Notwithstanding any provision of law to the contrary, any taxpayer
261 may sell, assign, exchange, convey or otherwise transfer tax credits allowed in
262 subsection 9 of this section under the terms and conditions prescribed in
263 subdivisions (1) and (2) of this subsection. Such taxpayer, referred to as the
264 assignor for the purpose of this subsection, may sell, assign, exchange or
265 otherwise transfer earned tax credits:

266 (1) For no less than seventy-five percent of the par value of such credits;
267 and

268 (2) In an amount not to exceed one hundred percent of such earned
269 credits. The taxpayer acquiring the earned credits referred to as the assignee for
270 the purpose of this subsection may use the acquired credits to offset up to one
271 hundred percent of the tax liabilities otherwise imposed by chapter 143, RSMo,
272 excluding withholding tax imposed by sections 143.191 to [143.261] 143.251,

273 RSMo, or chapter 148, RSMo, or in the case of an insurance company exempt from
274 the thirty percent employee requirement of section 135.230, against any
275 obligation imposed pursuant to section 375.916, RSMo. Unused credits in the
276 hands of the assignee may be carried forward for up to five tax periods, provided
277 all such credits shall be claimed within ten tax periods following the tax period
278 in which commencement of commercial operations occurred at the new business
279 facility. The assignor shall enter into a written agreement with the assignee
280 establishing the terms and conditions of the agreement and shall perfect such
281 transfer by notifying the director in writing within thirty calendar days following
282 the effective date of the transfer and shall provide any information as may be
283 required by the director to administer and carry out the provisions of this
284 subsection. Notwithstanding any other provision of law to the contrary, the
285 amount received by the assignor of such tax credit shall be taxable as income of
286 the assignor, and the difference between the amount paid by the assignee and the
287 par value of the credits shall be taxable as income of the assignee.

135.305. A Missouri wood energy producer shall be eligible for a tax credit
2 on taxes otherwise due under chapter 143, RSMo, except sections 143.191 to
3 ~~[143.261]~~ **143.251**, RSMo, as a production incentive to produce processed wood
4 products in a qualified wood producing facility using Missouri forest product
5 residue. The tax credit to the wood energy producer shall be five dollars per ton
6 of processed material. The credit may be claimed for a period of five years and
7 is to be a tax credit against the tax otherwise due.

135.313. 1. Any person, firm or corporation who engages in the business
2 of producing charcoal or charcoal products in the state of Missouri shall be
3 eligible for a tax credit on income taxes otherwise due pursuant to chapter 143,
4 RSMo, except sections 143.191 to ~~[143.261]~~ **143.251**, RSMo, as an incentive to
5 implement safe and efficient environmental controls. The tax credit shall be
6 equal to fifty percent of the purchase price of the best available control technology
7 equipment connected with the production of charcoal in the state of Missouri or,
8 if the taxpayer manufactures such equipment, fifty percent of the manufacturing
9 cost of the equipment, to and including the year the equipment is put into
10 service. The credit may be claimed for a period of eight years beginning with the
11 1998 calendar year and is to be a tax credit against the tax otherwise due.

12 2. Any amount of credit which exceeds the tax due shall not be refunded
13 but may be carried over to any subsequent taxable year, not to exceed seven
14 years.

15 3. The charcoal producer may elect to assign to a third party the approved
16 tax credit. Certification of assignment and other appropriate forms must be filed
17 with the Missouri department of revenue and the department of economic
18 development.

19 4. When applying for a tax credit, the charcoal producer specified in
20 subsection 1 of this section shall make application for the credit to the division
21 of environmental quality of the department of natural resources. The application
22 shall identify the specific best available control technology equipment and the
23 purchase price, or manufacturing cost of such equipment. The director of the
24 department of natural resources is authorized to require permits to construct
25 prior to the installation of best available control technology equipment and other
26 information which he or she deems appropriate.

27 5. The director of the department of natural resources in conjunction with
28 the department of economic development shall certify to the department of
29 revenue that the best available control technology equipment meets the
30 requirements to obtain a tax credit as specified in this section.

135.750. 1. Beginning January 1, 1999, a taxpayer shall be granted a tax
2 credit against the tax otherwise due pursuant to chapter 143, RSMo, excluding
3 withholding tax imposed by sections 143.191 to [143.261] **143.251**, RSMo, or
4 chapter 148, RSMo, for up to fifty percent of the amount of investment in
5 production or production-related activities in a qualified film production project.
6 As used in this section, the term "taxpayer" means an individual, a partnership,
7 or a corporation as described in section 143.441, 143.471, RSMo, or section
8 148.370, RSMo, and the term "qualified film production project" means any film
9 production project with an expected in-state expenditure budget in excess of three
10 hundred thousand dollars. Each film production company shall be limited to one
11 qualified film production project per year. Activities qualifying a taxpayer for the
12 tax credit pursuant to this subsection shall be approved by the office of the
13 Missouri film commission and the department of economic development.

14 2. Taxpayers shall apply for the film production tax credit by submitting
15 an application to the department of economic development, on a form provided by
16 the department. As part of the application, the expected in-state expenditures
17 of the qualified film production project shall be documented. In addition, the
18 application shall include an economic impact statement, showing the economic
19 impact from the activities of the film production project. Such economic impact
20 statement shall indicate the impact on the region of the state in which the film

21 production or production-related activities are located and on the state as a
22 whole.

23 3. Tax credits certified pursuant to subsection 1 of this section shall not
24 exceed one million dollars per taxpayer per year, and shall not exceed a total for
25 all tax credits certified of one million five hundred thousand dollars per
26 year. Taxpayers may carry forward unused credits for up to five tax periods,
27 provided all such credits shall be claimed within ten tax periods following the tax
28 period in which the film production or production-related activities for which the
29 credits are certified by the department occurred.

30 4. Notwithstanding any provision of law to the contrary, any taxpayer
31 may sell, assign, exchange, convey or otherwise transfer tax credits allowed in
32 subsection 1 of this section. The taxpayer acquiring the tax credits may use the
33 acquired credits to offset the tax liabilities otherwise imposed by chapter 143,
34 RSMo, excluding withholding tax imposed by sections 143.191 to [143.261]
35 **143.251**, RSMo, or chapter 148, RSMo. Unused acquired credits may be carried
36 forward for up to five tax periods, provided all such credits shall be claimed
37 within ten tax periods following the tax period in which the film production or
38 production-related activities for which the credits are certified by the department
39 occurred.

143.225. 1. The director of revenue, by regulation, may require an
2 employer to timely remit the unpaid amount required to be deducted and
3 withheld by section 143.191 at the end of any quarter-monthly period, only if the
4 employer was required to deduct and withhold six thousand dollars or more in
5 each of at least two months during the prior twelve months.

6 2. The director may increase the monthly requirement to more than six
7 thousand dollars or otherwise narrow the application of the quarter-monthly
8 remittance system authorized by this section. The director may not require the
9 remittance of withheld taxes more often than monthly unless authorized by this
10 section.

11 3. A remittance shall be timely if mailed as provided in section 143.851
12 within three banking days after the end of the quarter-monthly period or if
13 received by the director or deposited in a depository designated by the director
14 within four banking days after the end of the quarter-monthly period.

15 4. [The unpaid amount shall be after a reduction for the compensation
16 provided by section 143.261.] The unpaid amount at the end of a
17 quarter-monthly period shall not include unpaid amounts for any prior

18 quarter-monthly period.

19 5. For purposes of this section, "quarter-monthly period" means:

20 (1) The first seven days of a calendar month;

21 (2) The eighth to fifteenth day of a calendar month;

22 (3) The sixteenth to twenty-second day of a calendar month; and

23 (4) The portion following the twenty-second day of a calendar month.

24 6. (1) In the case of an underpayment of any amount required to be paid
25 pursuant to this section, an employer shall be liable for a penalty in lieu of all
26 other penalties, interest or additions to tax imposed by this chapter for violating
27 this section. The penalty shall be five percent of the amount of the underpayment
28 determined under subdivision (2) of this subsection.

29 (2) The amount of the underpayment shall be the excess of:

30 (a) Ninety percent of the unpaid amount at the end of a quarter-monthly
31 period; over

32 (b) The amount, if any, of the timely remittance for the quarter-monthly
33 period.

34 7. (1) The penalty with respect to any quarter-monthly period shall not
35 be imposed if the employer's timely remittance for the quarter-monthly period
36 equals or exceeds one-fourth of the average monthly withholding tax liability of
37 the employer for the preceding calendar year. The month of highest liability and
38 the month of lowest liability shall be excluded in computing the average. This
39 subdivision shall apply only to an employer who had a withholding tax liability
40 for at least six months of the previous calendar year.

41 (2) The penalty shall not be imposed if the employer establishes that the
42 failure to make a timely remittance of at least ninety percent was due to
43 reasonable cause, and not due to willful neglect.

44 (3) The penalty shall not be imposed against any employer for the first
45 two months the employer is obligated to make quarter-monthly remittance of
46 withholding taxes.

47 8. Tax amounts remitted under this section shall be treated as payments
48 on the employer's monthly return required by subsection 2 of section
49 143.221. Tax amounts remitted under this section shall be deemed to have been
50 paid on the last day prescribed for filing the return. The preceding sentence shall
51 apply in computing [compensation under section 143.261,] interest, penalties, and
52 additions to tax and for purposes of all sections of chapter 143, except this
53 section.

54 9. The director of revenue may prescribe the use of an electronic funds
55 payment system for the payment of withholding taxes by any employer subject to
56 the requirement of quarter-monthly remittance as provided in this section.

144.081. 1. The director of revenue, by regulation, may require a seller
2 to timely remit the unpaid state sales tax for each quarter-monthly period, only
3 if the seller's aggregate state sales tax was ten thousand dollars or more in each
4 of at least six months during the prior twelve months. The term "state sales tax"
5 as used in this section means the tax imposed by sections 144.010 to 144.510 and
6 the additional sales tax imposed by sections 43(a) to 43(c) and 47(a) to 47(c) of
7 article IV of the Missouri Constitution and does not include any sales taxes
8 imposed by political subdivisions of the state pursuant to other provisions of law.

9 2. The director may increase the monthly requirement to more than ten
10 thousand dollars or otherwise narrow the application of the quarter-monthly
11 remittance system authorized by this section. The director may not require the
12 remittance of state sales taxes more often than monthly unless authorized by this
13 section.

14 3. A remittance shall be timely if mailed as provided in section 143.851,
15 RSMo, within three banking days after the end of the quarter-monthly period or
16 if received by the director or deposited in a depository designated by the director
17 within four banking days after the end of the quarter-monthly period.

18 4. [The unpaid amount shall be after a reduction for the compensation
19 provided by section 144.140.] The unpaid amount at the end of a
20 quarter-monthly period shall not include unpaid amounts for a prior
21 quarter-monthly period only if the seller made a remittance with respect to the
22 prior quarter-monthly period. The excess, if any, of a remittance over the actual
23 amount for a period shall be applied in order of time to each of the seller's
24 succeeding remittances with respect to the same return period.

25 5. For purposes of this section, "quarter-monthly period" means:

- 26 (1) The first seven days of a calendar month;
27 (2) The eighth to fifteenth day of a calendar month;
28 (3) The sixteenth to twenty-second day of a calendar month; and
29 (4) The portion following the twenty-second of a calendar month.

30 6. (1) In the case of an underpayment of any amount required to be paid
31 pursuant to this section, a seller shall be liable for a penalty in lieu of all other
32 penalties, interest or additions to tax imposed by this chapter for violating this
33 section. The penalty shall be five percent of the amount of the underpayment

34 determined under subdivision (2) of this subsection.

35 (2) The amount of the underpayment shall be the excess of:

36 (a) Ninety percent of the unpaid amount at the end of a quarter-monthly
37 period, over

38 (b) The amount, if any, of the timely remittance for the quarter-monthly
39 period.

40 7. (1) The penalty with respect to any quarter-monthly period shall not
41 be imposed if the seller's timely remittance for the quarter-monthly period equals
42 or exceeds one-fourth of the average monthly state sales tax liability of the seller
43 for the preceding calendar year. The month of highest liability and the month of
44 lowest liability shall be excluded in computing the average. This subdivision
45 shall apply only to a seller who had a state sales tax liability for at least six
46 months of the previous calendar year.

47 (2) The penalty shall not be imposed if the seller establishes that the
48 failure to make a timely remittance of at least ninety percent was due to
49 reasonable cause, and not due to willful neglect.

50 (3) The penalty shall not be imposed against any seller for the first two
51 months the seller is obligated to make quarter-monthly remittance of state sales
52 taxes.

53 8. Tax amounts remitted under this section shall be treated as payments
54 on the seller's monthly return required by sections 144.080 and 144.090. Tax
55 amounts remitted under this section shall be deemed to have been paid on the
56 last day prescribed for filing the return. The preceding sentence shall apply in
57 computing [compensation under section 144.140,] interest, penalties, and
58 additions to tax and for purposes of all sections of this chapter, except this
59 section.

60 9. The director of revenue may prescribe the use of an electronic funds
61 payment system for the payment of sales and use taxes by any seller subject to
62 the requirement of quarter-monthly remittance as provided in this section.

313.826. Each excursion gambling boat licensed by the commission shall
2 withhold for state income tax purposes from electronic gaming device jackpots or
3 table game jackpots of twelve hundred dollars or more an amount equal to four
4 percent of the prize. Withholdings made pursuant to this section shall be subject
5 to the withholding tax provisions pursuant to sections 143.191 to [143.261]
6 ~~143.251~~, RSMo[, including section 143.261, RSMo].

320.093. 1. Any person, firm or corporation who purchases a dry fire

2 hydrant, as defined in section 320.273, or provides an acceptable means of water
3 storage for such dry fire hydrant including a pond, tank or other storage facility
4 with the primary purpose of fire protection within the state of Missouri, shall be
5 eligible for a credit on income taxes otherwise due pursuant to chapter 143,
6 RSMo, except sections 143.191 to [143.261] **143.251**, RSMo, as an incentive to
7 implement safe and efficient fire protection controls. The tax credit, not to exceed
8 five thousand dollars, shall be equal to fifty percent of the cost in actual
9 expenditure for any new water storage construction, equipment, development and
10 installation of the dry hydrant, including pipes, valves, hydrants and labor for
11 each such installation of a dry hydrant or new water storage facility. The amount
12 of the tax credit claimed for in-kind contributions shall not exceed twenty-five
13 percent of the total amount of the contribution for which the tax credit is claimed.

14 2. Any amount of credit which exceeds the tax due shall not be refunded
15 but may be carried over to any subsequent taxable year, not to exceed seven
16 years. The person, firm or corporation may elect to assign to a third party the
17 approved tax credit. The certificate of assignment and other appropriate forms
18 must be filed with the Missouri department of revenue and the department of
19 economic development.

20 3. The person, firm or corporation shall make application for the credit to
21 the department of economic development after receiving approval of the state fire
22 marshal. The fire marshal shall establish by rule promulgated pursuant to
23 chapter 536, RSMo, the requirements to be met based on the National Resources
24 Conservation Service's Missouri Dry Hydrant Standard. The state fire marshal
25 or designated local representative shall authorize and issue a permit for the
26 construction and installation of any dry fire hydrant site. Only approved dry fire
27 hydrant sites will be eligible for tax credits as indicated in this section. Under
28 no circumstance shall such authority deny any entity the ability to provide a dry
29 fire hydrant site when tax credits are not requested.

30 4. The department of economic development shall certify to the
31 department of revenue that the dry hydrant system meets the requirements to
32 obtain a tax credit as specified in subsection 5 of this section.

33 5. In order to qualify for a tax credit under this section, a dry hydrant or
34 new water storage facility must meet the following minimum requirements:

35 (1) Each body of water or water storage structure must be able to provide
36 two hundred fifty gallons per minute for a continuous two-hour period during a
37 fifty-year drought or freeze at a vertical lift of eighteen feet;

38 (2) Each dry hydrant must be located within twenty-five feet of an
39 all-weather roadway and must be accessible to fire protection equipment;

40 (3) Dry hydrants shall be located a reasonable distance from other dry or
41 pressurized hydrants; and

42 (4) The site shall provide a measurable economic improvement potential
43 for rural development.

44 6. New credits shall not be awarded under this section after August 28,
45 2003. The total amount of all tax credits allowed pursuant to this section is five
46 hundred thousand dollars in any one fiscal year as approved by the director of the
47 department of economic development.

48 7. Any rule or portion of a rule, as that term is defined in section 536.010,
49 RSMo, that is created under the authority delegated in this section shall become
50 effective only if it complies with and is subject to all of the provisions of chapter
51 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
52 536, RSMo, are nonseverable and if any of the powers vested with the general
53 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date
54 or to disapprove and annul a rule are subsequently held unconstitutional, then
55 the grant of rulemaking authority and any rule proposed or adopted after August
56 28, 1999, shall be invalid and void.

660.136. 1. The "Utilicare Stabilization Fund" is hereby created in the
2 state treasury to support the provisions of sections 660.100 to 660.136. Funds for
3 the utilicare program may come from state, federal or other sources including
4 funds received by this state from the federal government under the provisions of
5 the Community Opportunities Accountability and Training and Educational
6 Services Act of 1998 (Title III, Section 301-309, Public Law 93.568), together with
7 any interest or other earnings on the principal of this fund. Except as provided
8 in subsection 3, moneys in the utilicare stabilization fund shall be used for the
9 purposes established in the Federal Low Income Home Energy Assistance
10 Program and sections 660.100 to 660.136.

11 2. The provisions of section 33.080, RSMo, to the contrary
12 notwithstanding, money in this fund shall not be transferred and placed to the
13 credit of general revenue until the amount in the fund at the end of the biennium
14 exceeds two times the amount of the appropriation from the fund for the
15 preceding fiscal year. The amount, if any, in the fund, which shall lapse, is that
16 amount in the fund which exceeds the appropriate multiple of the appropriations
17 from the fund for the preceding fiscal year. Moneys in the utilicare fund not

18 needed currently for the purposes designated in sections 660.100 to 660.136 may
19 be invested by the state treasurer in the manner that other moneys of the state
20 are authorized by law to be invested. All interest, income and returns from
21 moneys of the utilicare stabilization fund shall be deposited in the state treasury
22 to the credit of the utilicare stabilization fund.

23 3. When the utilicare stabilization fund receives a transfer pursuant to
24 section 470.270, RSMo, the moneys from that transfer shall be held in the fund
25 for one full year after the date of transfer and shall be used to pay for heating or
26 cooling assistance as provided in sections 660.100 to 660.136. Any moneys
27 remaining at the end of that year shall be deposited in the state treasury to the
28 credit of the general revenue fund of the state.

29 **4. The commissioner of administration shall estimate the**
30 **appropriate net increase in the amount of state tax revenues collected**
31 **and any adjustments to previous estimates resulting from the repeal of**
32 **the timely filing discounts provided for in sections 143.261 and 144.140,**
33 **RSMo. The treasurer shall furnish such estimates to the state**
34 **treasurer. Each month, the state treasurer shall transfer from general**
35 **revenue to the utilicare stabilization fund, created under subsection 1**
36 **of this section, an amount equal to the estimate provided by the**
37 **commissioner.**

[143.261. For every remittance to the director of revenue
2 made on or before the date the remittance becomes due, the
3 employer, other than the United States and its agencies, the state
4 of Missouri and political subdivisions thereof, may deduct and
5 retain the following percentages of the total amount of tax withheld
6 and paid in each calendar year:

7 (1) Two percent of five thousand dollars or less;

8 (2) One percent of amount collected in excess of five
9 thousand dollars and up to and including ten thousand dollars;

10 (3) One-half percent of amount collected in excess of ten
11 thousand dollars.]

[144.140. From every remittance to the director of revenue
2 made on or before the date when the same becomes due, the person
3 required to remit the same shall be entitled to deduct and retain
4 an amount equal to two percent thereof.]

✓